OBSERVATIONS

ON THE

LAWS AND ORDINANCES

WHICH EXIST IN

FOREIGN STATES,

RELATIVE TO

The Religious Concerns

OF THEIR

ROMAN CATHOLIC SUBJECTS.

BY THE

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ADVERTISEMENT.

It is the peculiar characteristic of the warfare which is directed against the Catholic Church, that its combatants remember nothing which they should know, and forget nothing which it would be more wise, if not more honourable, to banish from their recollection. They move for ever in the same circle: they return again and again to the same manœuvres; and, however they may have been previously discomfited or defeated, they advance, at intervals, by the same approaches, to make the same attacks in which they have so constantly been repulsed.

We have an instance of this, at the present moment, in the reproduction, by order of the House of Commons, of the Report of a Committee originally drawn up in 1816, on "the Laws and Ordinances of Foreign States, regulating the intercourse between their Roman Catholic Subjects and the See of Rome." So far back as the year 1812, it had become evident, from the growing liberality of the age, and the increased importance of the Catholic body, that the time was approaching when the removal of all civil disabilities, on the score of religion, must be effected; and, with a view, therefore, to prepare itself to legislate on the subject, the government, through Lord Castlereagh, and at the instigation, if not at the suggestion, of Sir John Cox Hippisley, instructed the English ministers, accredited to foreign courts, to ascertain the precise regulations by which the Catholics, in the several states of Europe, were governed in ecclesiastical matters, and to transmit the information, when obtained, to the authorities at home. On the conclusion of the general peace, in 1815, further instructions to the same persons, and to the same effect, were issued by Lord Bathurst, in the absence of Lord Castlereagh; and, in the following year, the returns made by the several ambassadors and ministers having been successively presented to the House of Commons, they were finally, on the motion of Sir John Cox Hippisley, referred to a select committee for its report. That report was brought up on the 25th of June, and ordered to be printed. It professed to describe, "first, the appointment or election of the Roman Catholic clergy, and principally those of the episcopal order: secondly, the restraints imposed upon the intromission of papal rescripts, by submitting them to the inspection of the civil government previous to their publication:" and Sir John Cox Hippisley, in presenting it to the House, declared that, from the documents which it contained "it would be seen that, in every country, the government exercised a control over the interference of

the papal authority; and that, in no case, the bishops enjoyed their rank, without the direct sanction of their respective governments." But it was at once observed, that the cases cited by the committee bore no analogy to the circumstances and situation of the Catholic religion in these kingdoms. A right might be properly or legally established in one place, for which no colourable pretence might exist in another: and acts of oppressive legislation might be endured under a despotic government, which could form no precedent for the guidance of a constitutional monarchy. With the Catholics, of course, it became an object to expose the fallacy, if not of the Report itself, at least of the consequence to be deduced from it: and Dr. Lingard, as the most competent person in the body, was requested by the bishops to undertake the task. The present pamphlet was the result. It appeared in 1817,—I believe anonymously; for Mr. Joseph Berington, writing, at the time, to his friend the present Dr. Kirk, says,—"there is a very excellent little pamphlet published in reply to the Report by Keating and Brown; but by whom written I have not heard." However, the name of the writer was not long a secret. The extent of his information, the cogency of his reasoning, and the calm, temperate, and dignified tone of his remarks, at once pointed to the future historian of his country; and the effect produced by the publication was such, that Sir John Cox Hippisley, mortified at the failure of his favourite project for fettering the Catholic Religion, actually made it a subject of personal complaint to the Pope, in the following year. There, however, the matter rested. The Report and the project were alike laid aside, and had been almost forgotten, when, now again, the reappearance of the former, within the last few days, seems once more to call for the publication of Dr. Lingard's excellent work.

The reader will require no apology for this introduction to an old and venerated acquaintance. The manner in which he disposes of the question, whether as raised by the Report itself, or as borrowed from it by Dr. Twiss, Lord John Russell, and the various lecturers and agitators of the day, leaves nothing to be supplied. His pamphlet is a clear and masterly refutation of the doctrine, that the laws and ordinances of other states, with regard to the external government of the Catholic Church, form any criterion for the legislation of this country; while his reasoning evidently leads to the necessary though unexpressed conclusion, that whatever has lately been said as to the regulations and proceedings in the same matter, even in this kingdom, before the Reformation, can have no possible bearing on the question now at issue before the country.

March 15, 1851. M. A. T.

OBSERVATIONS, &c.

I.

FOREIGN ORDINANCES—THEIR NATURE AND TENDENCY.

BEFORE the regulations existing in foreign states, with respect to the concerns of the Roman Catholic Church, are adopted by the legislature of this empire, two questions deserve to be answered. 1st. Are they of such a nature that Roman Catholics may conscientiously assent to them? 2nd. Are they of such a nature as to be applicable to the situation of the Roman Catholic religion in the British islands? For it is certainly possible, that in states where the will of the prince is the law of the land, arbitrary sovereigns may have invaded the religious as well as the civil liberties of their subjects: and it is obvious that national churches, possessing splendid civil establishments, stand in a very different situation from the Roman Catholic Church of the United Kingdom, which possesses no civil establishment whatsoever.

I. Are they of such a nature, that Roman Catholics may conscientiously assent to them? Of many it is contended that they are not. The office of teaching, the administration of the sacraments, the right of granting dispensations, the collation or extinction of ecclesiastical jurisdiction, are all of them spiritual matters, and, according to the principles of Catholic theology, beyond the competence of the civil power. Yet it is well known, that, on all these subjects, foreign states have occasionally made regulations inconsistent with the essential discipline and doctrine of the Roman Catholic Church.

Of this assertion sufficient proof is furnished at the very commencement of the collection, where Austria and its Italian dependencies occupy one hundred and twenty pages. But what do these pages contain? The ancient regulations, which for centuries preserved harmony between the Church and State in that powerful empire? No: they offer us nothing but the pretended reforms of the Emperor Joseph, which were afterwards adopted and improved by the National Assembly in France.* If some of them were reconcilable, others were irreconcilable, with Catholic principles. The emperor might indeed enforce them by pains and penalties. His right to do so was denied by the bishops in every part of his dominions: and the exercise of such disputed right was considered as a religious persecution.

The character and history of this prince are well known. Possessed with the mania of innovation, and conceiving that every obstacle must yield to his imperial authority, he formed the most visionary schemes, and pursued them with a pertinacity bordering upon madness. His experiments extended to everything; to the law, the army, the church, and the constitutions of the provincial states. He consulted neither the opinions nor the feelings of his subjects. Institutions the most ancient and most sacred, confirmed by treaties and charters, were swept away: every remaining vestige of the liberty of former times was abolished: and decrees on all kinds of subjects, sometimes indeed salutary, sometimes absurd and impious, were issued in rapid succession.† Irritated by the opposition of his

* This is observed by his panegyrist. Ce qui ne peut echapper à l'esprit du lecteur, c'est de voir presque tous les plans de l'assemblée nationale, qui se tient actuellement á Paris, ébauchés par l'empereur. —Rien de plus ressemblant. Caraccioli, Vie de Joseph, ii. 190.

† See, for example, his catechism, in which children were compelled to learn by heart his decrees after the manner of the decalogue. "Thou shalt not appear at processions with feathers in thy hat; thou shalt forbear all occasions of dispute on matters of faith; thou shalt not hold in thy house assemblies for the purpose of devotion; thou shalt not keep any useless dogs; thou shalt not plant tobacco without the permission of thy lord," &c. Volkskatechismus, Ersterband, 1785.

clergy, he conceived, in 1785, the idea of separating his dominions from the communion of the Church of Rome. It was the Chevalier Azara, the Spanish minister at the Papal court, who convinced him that his subjects were not yet ripe for such a measure.* He therefore reverted to his previous plans of reform, and continued to encroach on the spiritual authority of the bishops. It was in vain that the prelates of Austria, of Hungary, of Bohemia, of Germany, and of the Netherlands, protested against them. Their remonstrances were treated with contempt:† the disobedience of some was punished with fines, of others with exile. Many lost, with part of their dioceses, the greater portion of their incomes: and all were stripped of the situations which they held in the provincial states. At length the effect of his innovations, civil and religious, recoiled upon himself. Austria was in a ferment: Hungary was on the point of insurrection: the Netherlands had revolted and established their independence; when his death opportunely saved the monarchy.

While Joseph was acting in this manner, his brother Leopold was Grand Duke of Tuscany. Guided, perhaps driven, by the emperor, he pursued a similar course, and was aided by the counsels of Ricci, Bishop of Pistoia. The same edicts were published by the Tuscan government, and equal opposition was made by the Tuscan bishops. In 1787, the Grand Duke convoked a national council at Florence to sanction these innovations. But the influence of the court was ineffectual: and, out of seventeen prelates, four only could be induced to favour the measures of government. After nineteen sessions, the assembly was dissolved with marks of the strongest displeasure on the part of Leopold.

* Dans cet entretien Joseph avoit développé avec une extrême chaleur un plan qui alloit étonner l'Europe. Il ne s'agissoit pas moins que de rompre avec la cour de Rome. Il vouloit soustraire ses sujets tout-à-fait à l'autorité pontificale. Il rioit de ses foudres. On l'appelleroit schismatique, peu lui importoit. See Mémoires Historiques et Philosophiques sur Pie VI. et son pontificat, i. 331. The author is citizen Bourgoin, one of the Revolutionary Ambassadors.

† They have been collected and published in five volumes, 8vo.

This short statement will, it is presumed, warrant the inference, that the religious edicts of Joseph and Leopold are entitled to very little authority: that, if they show how far an arbitrary sovereign can sport with the religious liberties of his people, they do not show, as it might be supposed they do, how far a Catholic prince may conscientiously interfere with the doctrine and discipline of the Catholic Church. To adopt such ordinances without inquiry or discrimination, would be to sanction the encroachments of despotism, and to convert the abuse of power into the legitimate exercise of right.

In opposition to this reasoning may be urged, 1. the resolutions of the congress at Embs; 2. the extracts from some Catholic jurists published among the documents; and, 3. the fact that many of Joseph's regulations remain still in force. To such objections the answer is easy.

1. The resolutions of the congress at Embs are of no authority. They are merely articles of a project which was never carried into execution. The emperor had induced Frederic d'Erthal, the Prince of Saxe, and his own brother Maximilian, who were electors of Mentz, Treves, and Cologne, and Jerome of Colloredo, archbishop of Salzburgh, to second him in his plan of reforming the church of Germany. Each of these prelates, in 1786, clandestinely sent an envoy to the baths of Embs, a singular spot for an assembly of such importance, as it was a Lutheran town in which the exercise of the Catholic religion was severely prohibited. The fruit of the congress was a long memorial of three and twenty articles, which the electors presented to the emperor, and which the emperor returned to the electors, with a request, that they would procure the signatures of the other German prelates. One only could be obtained: after some time, the very authors of the plan began to feel ashamed: the Elector of Treves was the first to withdraw from the confederacy: he was followed by the Elector of Mentz: the two remaining prelates gradually desisted from their pretensions: the French revolution ensued: and all four

were driven from their dioceses and dominions. Such was the termination of the affair.*

2. The opposition, which Joseph had experienced, suggested to him the idea of new-modelling the education of the clergy. With this view he dissolved the universities, abolished the episcopal seminaries, in which the candidates for holy orders were educated under the eye of their respective prelates, and established general seminaries, to which every bishop was ordered to send the young clergymen of his diocese. The professors in the new schools were appointed by the emperor himself: and the theology, which they taught, was accommodated to his opinions and ordinances. Their chief authority was the Belgian canonist Van Espen, who had been accused of having, to favour his friends the Jansenists, exalted the jurisdiction of the crown by the depression of that of the church: but they pushed his principles to the utmost extent, and drew from them conclusions, which he had not admitted. It is to this new school that we owe the work of Rechberger, from which copious extracts are given in the Appendix to the Reports, and the theses maintained by some students in the law at Coimbra, which are inserted among the documents from Portugal.†

* It is singular that so much importance should be attached in the report to this schismatical and abortive project: but it is still more singular that the opinion of Mr. Brown, an English barrister, should have been introduced among the ordinances of foreign states. Mr. Brown is convinced that even a pagan emperor would become, by receiving baptism, the head of the Christian church!!!

† Report, p. 74, 354. [Reprint, 47, 227.] The translations of both are incorrect: that of the latter seldom preserves the sense of the original for half a dozen lines together.

[In 1818, Sir John Cox Hippisley complained to the Pope of this note, on the ground, first, that, though the translations were certainly incorrect, the originals were printed by their side; and, secondly, that the committee, to guard against mistakes, had prefixed an advertisement to the documents, stating that many of the translations had been made by foreigners, and referring to the originals "for the correction of such errors as might have crept in."—(Statement of Facts, p. 38.) Perhaps the reader may be tempted to enquire why a translation was published at all, unless for the use or the assistance of those who did not understand the originals. But let that pass. The

3. It is indeed true that many of the ordinances of Joseph still remain unrepealed. It should, however, be observed, that, from the impracticability of enforcing some of them, he was compelled to issue explanations, and to allow of indulgencies for the ease of tender consciences: that before his death, in his declaration to the states of Luxemburgh, he revoked all his edicts on religious matters from the year 1781, and that his successor Leopold restored to the bishops of Belgium their former liberties and jurisdiction. In Austria itself, the more obnoxious regulations are said to have fallen silently into disuetude: and some are still subjects of negociation between the courts of Vienna and Rome.—In Tuscany, after the death of the emperor, things gradually returned to their former state. Leopold himself compelled Ricci to resign his bishopric; Ferdinand, by a decree of October 13, 1792, revoked several of the late regulations; and Louis, by another of the 15th of April, 1802, re-established the bishops in their former rights and authority.

It would be tedious to pursue this inquiry through all the different heads, under which the documents are arranged. Measures, similar to those of the Emperor Joseph, have occasionally been adopted by other Catholic sovereigns, sometimes through motives of resentment, sometimes with the view of extending their own authority, in particular by the court of Portugal during the sway of the despotic Pombal, and by the court of Naples during its long quarrel with the Roman see, previous to the year 1791. But sufficient has been said to shew that the mere fact of a religious regulation having existed in a Catholic state, is no proof of its being consistent with the doctrine and discipline of the Roman Catholic Church, or such that a Roman Catholic may conscientiously assent to it.

What has been said of states which are Catholic, may with equal truth be said of states which are not. In Denmark and Sweden the number of Catholics is so inconsiderable, that the regulations respecting them

report has now been reprinted: *the originals and the advertisement have both been omitted:* but *the false translations have been carefully retained!* M. A. T.]

hardly deserve notice : in Prussia and Russia they amount to some millions, who have been successively included within those states by conquest and the two partitions of Poland. The very mention of that partition is sufficient to remind the reader of the injustice of the powers by whom it was effected. As they respected not the civil rights, it was not to be hoped that they would respect the religious liberties, of their new subjects of a different communion. The king of Prussia, indeed, allowed them the exercise of their religion under certain regultions : but the case was different with those who fell to the share of Russia. The Roman Catholics of Lithuania, Volhinia, Podolia and the Ukraine, were partly of the Latin, and partly of the Greek rite. The former met with little molestation ; the latter were, without their consent or knowledge, united to the Russian church by a decree of the empress. She expelled the national Greek clergy, sent in their place bishops and priests from Russia, drove the people to church at the point of the bayonet, and by imprisonment and corporal infliction punished and overcame their resistance. Certainly it is not to sovereigns of this description that a British parliament must apply, to learn in what manner it ought to legislate for British subjects.

II. Are the regulations contained in the Report and documents of such a nature as to be applicable to the Catholic Church in this kingdom ? It is apprehended that they are not, because they all, with one or two trifling exceptions, relate to churches placed in very different circumstances from those of the Catholic Church in the British islands.

During the first three centuries of the Christian era, the church possessed no civil establishment. It existed in the empire, but it derived no civil advantages from the the emperors. It was unknown to the laws, unless occasionally for the purposes of vengeance. During this period, its chief pastors enjoyed and exercised, independently of the civil power, that spiritual authority which had been transmitted to them from the apostles, the right

of teaching the Christian doctrine, of administering the sacraments, of determining the forms of divine worship, and of making disciplinary laws relative to spiritual objects.

In the fourth century, the emperors embraced Christianity, and the church obtained a civil establishment. The sovereign became its protector: revenues, immunities, and distinctions were assigned to its ministers: the authority of its canons was recognised by the civil power: the secular tribunals enforced the execution of the decrees given by the ecclesiastical courts: and civil effects were allowed to result from religious acts. Such is the state of all national churches established by law. It was that of the Catholic Church in this island before the Reformation; it is that of the reformed church at the present day.

When the former ceased to be the established church, it lost all those temporal advantages which it had derived from its union with the state: and reverted to the same condition in which the Christian church had originally existed. But it still retained its spiritual authority. *That* it had not received from the civil power; of that it could not be deprived by the civil power.

Now it is submitted that the ordinances in question relate not to a church of this description. They relate to national churches established by law, and deriving civil advantages from such civil establishment. This is the case with regard to all the documents from Austria, the Milanese, and Lombardy; from Venice, Tuscany, Naples and Sicily; from Sardinia, Piedmont, and Savoy; from France, Spain, Portugal, and the Brazils; from the Cantons of Switzerland, and many parts of Germany. The same may be said of those from Prussia, respecting the Catholic churches of Silesia and Poland, and of those from Russia, respecting the Catholic churches enclosed within the limits of that extensive empire. In all these states the Catholic Church possesses splendid civil establishments.

It is moreover of churches of this description that we are to understand the doctrines of Van Espen, Rechberger, and the jurists of Coimbra. These canonists thought not

of a church existing, like that of the first Christians, with no other advantages or authority than such as are merely spiritual. They spoke of churches which flourish under the fostering care of the state, which have the sovereign for their protector and advocate, which can enforce their laws by temporal penalties, and which derive their revenues from the munificence of the civil power.

Denmark and Sweden indeed form exceptions. These two kingdoms can supply an abundant harvest of religious restrictions. In Denmark, the exercise of the Catholic religion is prohibited by law, and permitted only in particular places by special license from the sovereign. In Sweden, it is prohibited to the natives, and only tolerated in foreigners who come to settle in the kingdom. In neither have the Catholics any bishop. As long as the penal laws were in force in these islands, the example of Denmark and Sweden might have been prized: at the present day, it is of no value whatever.*

There still remains a country, which can furnish an instance in point, the United States of America, where the Catholic Church exists, as it does in this empire, without any civil establishment. "No communications," says the Report, "have been made respecting the laws affecting Roman Catholics in the United States of America." The reason is obvious. No communication was made, because no such laws existed. In the United States, the Catholic clergy perform their sacred functions, and exercise their spiritual authority, without molestation. The government meddles not with the appointment of their bishops, or their correspondence with foreign prelates. In the eye of the law, every creed is equal. No one is singled out as a particular object of jealousy and restriction. As long as religion interferes not with the civil power, the civil power interferes not with religion.

* The ecclesiastical regulations for the new kingdom of the Netherlands are not yet completed. But the intolerant edict of the states of Holland and West Friesland of the 21st of September, 1730, which is noticed in the Report and Appendix, was annulled by the new constitution, when Louis Buonaparte was King of Holland.

II.

ON THE APPOINTMENT OF BISHOPS.

In the first ages of christianity, while the church possessed no civil establishment, the sovereign never had any part in the appointment of bishops.

In the middle ages, during the prevalence of the feudal notions, the estates belonging to each bishopric began to be considered as fees held of the crown. They were subjected to secular services: at each vacancy they reverted to the possession of the sovereign: and he claimed and exercised the right of bestowing them, on the usual tenure, to whomsoever he pleased.

This practice produced the most enormous abuses. The bishoprics were kept vacant, that the sovereign might receive the revenues: they were sold to the highest bidder: they were granted in reversion, and to children. At length, in the 12th and 13th centuries, by the exertions of the popes and councils, an approximation was made to the ancient discipline, by the establishment of what was called the freedom of canonical election. The choice of the bishop was given to the chapter: but the prelate elect applied to the king for his temporalities, and did homage and swore fealty, as an acknowledgment that he held them of the crown.

The freedom of canonical election was frequently impeded, on the one side by papal provisions, on the other by the claims of patronage still urged by the crown. In England, the substance of the thing was taken away, while the shadow remained: and the king, by adding a recommendation equivalent to a command to the congé d'elire, secured the appointment to himself. In some other countries, the sovereigns, by concordats with different popes, obtained the undisturbed exercise of the right of nomination.

At present, the Austrian sovereign appoints to all the

bishoprics within his dominions on this side of the Alps, with the exception of the Archbishopric of Olmutz, the nomination to which belongs to the chapter. In France, the nomination is in the king, by virtue of a concordat with Leo X.—In Spain, it is in the king, by virtue of a concordat with Adrian VI.*—In the states of the king of Sardinia, it belongs to the monarch, by a concordat with Nicholas V.—In Portugal also it has long been exercised by the crown.†

In Italy the case is different. The bishops of Lombardy were appointed by the pope. Joseph assumed the right of nomination, but declared that, with the exception of the archbishopric of Milan, he would principally name such persons as should be recommended by the pontiff.—The Venetian Senate named the Patriarch of Venice.‡ For the other bishoprics it presented three names to the pope.—In Tuscany, the government selects four persons,

* Among the documents is another concordat with Benedict XIV. of which the Report says, p. 27, [22]. "That the principal object seems to have been a reservation to the See of Rome of fifty benefices in the kingdom of Spain, which was acceded to by the Crown." The truth is, that in Spain, by ancient custom, the appointment to most benefices under bishoprics was not in the crown, but in the Pope during eight months of the year, and in the bishops and chapters during the other four. This privilege Benedict XIV. resigned, and, in lieu of it, consented to accept the perpetual nomination to fifty-two benefices specified in the concordat.

† A concordat was drawn up in 1778, the year after the disgrace of Pombal. It is said by Sir Charles Stuart, "not to answer the tone which is remarkable in M. de Pombal's communications with the clergy and the court of Rome." Append. to Rep. p. 354. [227] He sent a copy of it, but it is not noticed in the Report, nor has it found its way into the Appendix.

‡ The Report says also of Aquileia, the patriarch of which was compelled to choose a noble Venetian for his coadjutor, p. 14. [12]. The fact is, that by treaty the nomination of the patriarch belonged alternately to Austria and Venice: but the senate, by means of coadjutors chosen repeatedly by the Venetian patriarch for the time being, contrived always to defeat the claim of Austria. But in 1751, Benedict XIV. put an end to the contests on that subject, by suppressing the patriarchate, and erecting in its stead the two archiepiscopal sees of Udina and Goritz.

and presents their names to the pope.—With respect to the kingdom of Naples and the two Sicilies, we are told that the appointment of the Neapolitan bishops is the subject of negociation, but that in Sicily the nomination to all bishoprics is exclusively in the crown.* The assertion requires some explanation. In the dominions of his Sicilian majesty, were one hundred and thirty-nine bishoprics. Of these, twenty-six only were in the presentation of the king: the rest were at the appointment of the pope. In the year 1790, after a long controversy respecting this and other matters, a concordat was concluded, by which the appointment to benefices of the second order was reserved to the pontiff, who was bound to name subjects of his Sicilian majesty: but, with respect to the bishoprics, the king was to present the names of three persons to the pope, who was to select one. It is only in this sense that the nomination is exclusively in the crown.

In Switzerland, the nomination is in the pope or the chapters. In Germany, it was regulated by different concordats, which fixed it principally in the chapters. But, in consequence of the new arrangements of territory settled by the treaty of Vienna, by which most of the Catholic bishoprics are placed under the dominion of Protestant sovereigns, negociations have been opened for a new concordat. The same may be said of the present kingdom of the Netherlands.

The appointment of Roman Catholic bishops in the Russian dominions appears to approach towards the ancient form of canonical election. They are chosen by the Catholic consistory; that is, by an assembly of Roman Catholic prelates of the Latin and Greek rites, with the metropolitan at their head. The person so chosen is recommended or presented by them to the emperor, who informs the pope that he has named such a clergyman to the vacant bishopric, and requests the necessary letters of institution.†

* Report, p. 18, [15], and memorandum by Lord William Bentinck, Append. p. 200. [122]. † Report, p. 37. [30].

From the Prussian dominions the accounts are not satisfactory. The Catholic bishoprics are all situated in countries which have been acquired by conquest. Hence, in some parts, the appointments are regulated by previous concordats; and the chapters of Breslau and Ermland choose their bishops subject to the royal approbation. Hence, in others, the king assumes that he has succeeded to all the claims of the former Catholic sovereigns, and on that ground names to the Polish bishoprics of Gnesen, Culm, and Posen.

Now it should be observed, that in all these countries there is no proof that any sovereign, whether Roman Catholic or Protestant, ever named, or claimed a right to name, to a bishopric, which had no temporalities attached to it.* This is a very important consideration. The bishops so named by the civil power, bear two characters. They may be spiritual ministers: but they are also temporal lords. By their appointment, they come into the possession of revenues derived from, and secured to them by, the state: they enjoy civil rank and consideration: they have seats in the national assemblies, diets, and states; and they hold courts, in which their officers judge according to the canon law, and enforce their judgments by temporal penalties.

The truth of this statement will not be denied, as far as regards the Catholic Churches within the dominions of Catholic sovereigns. The same is the case with respect to those under the governments of Prussia and Russia. The King of Prussia, when he united his conquests to his former territories, always allowed the Catholic bishops to retain their temporalities and privileges. Their external jurisdiction is formally recognised in the Prussian code.

* It may perhaps be proper to observe, that the titular bishops, whom the emperor appoints in Hungary, are the bishops of sees, which formerly were a part of that kingdom, but are now under the dominion of Turkey. These prelates retain all their former privileges, and their seats in the diet, and the tribunals of Hungary. Rep. p. 99, [60]. To avoid mistake, it should also be observed, that the vicar apostolic at Stockholm is not a bishop, but a missionary priest.

" Gross misdemeanours, as also private actions, originating in the exercise of ecclesiastical functions, belong to the ecclesiastical courts." " To the bishops belong the church discipline and punishments, consisting either in penitential ecclesiastical exercises, or in fines not exceeding twenty-five dollars, or in imprisonment not exceeding the space of one month."* In the oukases for the establishment of new Roman Catholic sees in the Polish provinces seized by Russia, we find estates and revenues assigned to the bishops, a power given them to establish courts " for the examination and judgment of all ecclesiastical as well as secular affairs, appertaining to their jurisdiction, and a prohibition to the civil tribunals to interfere in any way in the affairs concerning the Roman Catholic churches."†

But the Roman Catholic bishops in the United Kingdom are in a very different situation. They are merely spiritual ministers, such as were the first Christian bishops, before the church obtained a civil establishment. They have no temporalities allotted to them : they have no rank in the state, no courts, no civil privileges, no civil jurisdiction. Certainly, it will not be argued that, because foreign sovereigns appoint bishops, who are temporal lords, the sovereign of this empire ought to appoint bishops, who are not so. Where the prelates receive from the state, rights, privileges, and revenues, there only does the state interfere in their appointment. It may have

* Report, p. 453. [286].

† In the oukase respecting the archiepiscopal see of Mohilow, the fifth article, " the archbishop shall not receive any oukase or order from any person whatever besides us and our senate," appears to have been considered of much importance, and on that account has been copied into the Report. It is probable, however, that it relates merely to the archbishop's rank in the state, and has no reference to the pontiff. The fourth article assigns the revenue of his coadjutor ; next comes the fifth, declaring his immediate superiors to be the sovereign and the senate ; then follow two others, authorising him to establish courts, and exempting him from the jurisdiction of the tribunals of Livonia, Esthonia, and Finland, p. 400. [255, 256].

acquired a claim to do so.* But in Great Britain and Ireland the Roman Catholic bishops receive nothing more from the state than any other private individual.

Nor should the ground be forgotten on which the sovereigns originally contended for the right of appointment. It was that they were the patrons. Their predecessors had founded and endowed the bishoprics: they had a claim to appoint those who were to enjoy them. "Our kings," says the advocate of the agreement between Francis and Leo X., "founded the greater part of the bishoprics: of course the collation to those bishoprics ought to appertain to their successors."† Thus Ferdinand II. of Arragon maintained that the popes ought to confirm the bishops nominated by him, "because his predecessors were the founders of those churches."‡ The same is asserted in the Jusconsuetudinarium of the kingdom of Hungary. "The kings of Hungary having been the sole founders of all the churches and bishoprics of the kingdom, they have acquired and exercised all the rights of patronage, nomination, election, and collation of benefices."§ But the sovereign of this realm has no claim to the patronage of the Roman Catholic bishoprics. They have no endowments: they are not even permitted by law to have any. It is plain then, that the example of foreign princes, who nominate the Catholic bishops in their dominions, fur-

* This is the doctrine of Pithou, transmitted by Sir Charles Stuart. "The instant the church acquired a civil existence, its dignities became real magistracies, the disposal of which belongs to the sovereign, as they are a delegated portion of the supreme power, and protected by the laws and arms of the state." Report, p. 265, [175].

† Le concordat est juste en ce qu'il remet au roi le droit de nomination, puisque nos rois ont fondé la plupart des grands benefices, dont par conséquent la collation doit appartenir à leurs successeurs. Nouvel abregé chronologique, &c. Report, p. 291, [190].

‡ Report, p. 264, [174].

§ Reges Hungariæ cum soli fuerint omnium ecclesiarum et episcopatuum in hoc regno fundatores, per ejusmodi fundationem omnem facultatem juris patronatus, nominationis, electionis, et collationis beneficiorum sibi ipsis acquisierunt et vindicarunt. Werbenz. ii. 538. Rep. p. 263, [173].

nishes no proof that the King of the United Kingdom ought to do the same in his.

The bishops are the chief ministers in the church. It is their duty to watch over their flocks, to preserve the integrity of faith, to enforce the rules of discipline. On their virtues, talents, and industry, depends the welfare of religion. Now, without meaning anything invidious, it can hardly be thought that the selection of proper persons for such a ministry should be entrusted to a government, which not only professes a different creed, but is sworn to protect a different church. In England, by 3 Jac. 1. c. 5. 1. W. and M. c. 26. 12 Ann, st. 2. c. 14. and II Geo. II. cap. 17. and in Ireland by 2 Ann. c. 6. and 33 Geo. III. c. 21. it has been enacted that no Catholic shall exercise the right of presentation to any ecclesiastical benefice whatsoever in the established church. Those who admire these statutes will certainly be able to appreciate the reasons which induce the Roman Catholics to object to any measure, which may transfer the appointment of their bishops to persons professing a different religion.

"Never," says Mr. Burke, "were the members of one religious sect fit to appoint pastors to another. Those who have no regard for their welfare, reputation, or internal quiet, will not appoint such as are proper. The seraglio of Constantinople is as equitable as we are, whether Catholics or Protestants, and, where their own sect is concerned, full as religious: but the sport which they make of the miserable dignities of the Greek church, the factions of the Haram to which they make them subservient, the continual sale to which they expose and re-expose the same dignity, and by which they squeeze all the inferior orders of the clergy, is nearly equal to all the other oppressions together exercised by Mussulmen over the unhappy members of the oriental church. It is a great deal to suppose that the present Castle would nominate bishops for the Roman Catholic Church of Ireland with a religious regard for its welfare. Perhaps they cannot;—perhaps they dare not do it."*

* Burke's Works, vol. vi. p. 290,

To the sentiments of Mr. Burke it may be allowable to add those of Sir J. Cox Hippisley, with whom the Report originated, and by whose care it was compiled. "An honourable and learned member has entertained an opinion that his Majesty, instead of the see of Rome, should in future nominate to the vacant sees of bishops of the Roman communion.—I conceive, Sir, that neither could the Catholics consistently concede such an innovation, nor could his Majesty consistently assume such an exercise of power."*

III.

ON THE ORIGIN AND OBJECT OF THE "PLACET."

By the "Placet" is understood a custom prevailing in many states, according to which papal bulls and briefs are subjected to the inspection of the civil power before they

* Substance of additional observations intended to have been delivered in the debate on the 14th of May, 1805, p. 111.—It may perhaps be objected that, in the appointment of Catholic Bishops in Malta and Canada, the crown has interfered, at least by its recommendation. But it should be observed, 1st,—that these are cases of conquest, where a mutual good understanding was equally desirable to both parties. 2dly. That both in Malta and Canada the Catholic Church may be said to possess a civil establishment. 3dly. That when Canada was ceded to England, the see of Quebec was vacant: that the chapter named Mr. Olivier de Bryant, who came to England, returned to Canada in 1766, and exercised the episcopal jurisdiction: and that, with the consent of Governor Carlton, he chose a coadjutor, whom he consecrated in 1772, with the permission of Governor Cramake. But all this was done without any direct interference of the British ministry. For Lord Dartmouth expressly says, "I do not find, upon the fullest examination, that any authority whatever has at any time been given by his Majesty, for the exercise, within the colony, of any powers of episcopacy in matters relative to the religion of the Church of Rome."—Report, p. 473, [302]. Indeed, as long as the penal laws remained in force, it would have been unsafe for his Majesty's ministers to have interfered in a direct manner.

are permitted to be carried into execution. From the word by which the assent of the sovereign is signified, it is called the "Placet, Pareatis, or Exequatur."

The following is the real origin of this custom. When, in the middle ages, a sovereign found himself engaged in a controversy with the Pope, it was usual for him to order the seizure of all bulls and letters from Rome, as soon as they should arrive in his dominions. It was a temporary and precautionary measure, to prevent the publication of any sentence of excommunication, interdict, or deposition, which might have been issued against him.

At the same period, papal provisions and reservations were the subject of much angry discussion. It was complained that they trenched on the rights of the sovereign, and of the patrons of benefices. As a remedy in this country, the statutes of provisors and premunire were enacted. In other countries other remedies were adopted: but the result of them all was the same, to prevent the execution of papal grants or decisions on beneficiary matters, till it should be ascertained, that they contained nothing prejudicial to the customs of the kingdom, or to the rights of the crown, or of individuals.

These were the two causes which gave birth to the "Placet:" causes which no longer exist, as far as regards the United Kingdom. The times, in which the popes pretended to depose sovereigns, are gone by: and the Catholic Church of these islands possesses no benefices with which they can interfere. But even were it otherwise, the oaths, which the British Catholics have taken, are a sufficient security against the one: the statutes of provisors and premunire are still in force against the other.

To shew the real nature of the "Placet," it will be proper to point out, 1st, the cases to which it does not,—2dly, those to which it does, apply, in the countries in which it is enforced.

Now, 1st, it does not apply to anything but official letters, enjoining some particular duty, or granting some particular favour. It has never occurred to the governments of other countries to restrain or forbid the *epistolary*

intercourse between their subjects, whether clergy or laity, and any individuals in the Roman states.*

2dly. From the operation of the "Placet" are also exempted rescripts concerning the "forum internum," or cases of conscience, and the private concerns of individuals. This is evident from the Report itself. In the memoria jurisdizionale, transmitted by Lord Burghersh, it is said: "Here it is proper to distinguish between the briefs and rescripts which have an influence on the civil state, and those which emanate from the penitentiary, and which interest only the consciences of individuals. With respect to the latter, the government has no right to interfere, nor has it ever interfered.—Hence grants that have no external influence, have never been subjected to the 'regium exequatur:' it being free to each citizen to provide by spiritual means for the tranquillity of his own conscience."† And in Durand's commentary, transmitted by Sir Charles Stuart: "Particular rescripts of the Pope regard the private concerns of those by whom they are solicited. They are not submitted to this formality (the Placet) unless they concern the public tranquillity, or involve the interests of a third person, as certain special indults granted to prelates for the collation of livings, in which case they require the royal approbation, or at least being verified and duly registered."‡

3dly. When this exception has been made, the other rescripts, which may emanate from the court of Rome, may be divided into two classes, the one of a nature entirely spiritual, comprising bulls which regard the doctrine and essential discipline of the Catholic Church: and the other of a mixt nature, regarding objects which in one

* Even under the iron reign of Buonaparte this unrestrained intercourse was allowed to the bishops and clergy in the concordat, which with his approbation the Italian republic concluded with Pius VII. Tout archevêque et evêque pourra toujours, librement et sans obstacle, communiquer avec le saint siége pour toutes les matières spirituelles et affaires ecclésiastiques. Concordat. art. 7.

† Report, p. 180. [111].

‡ Rep. p. 259, [169]. See also p. 278, 293, 320, 368, 375. [182, 191, 206, 236, 240].

respect belong to the spiritual, and in another to the civil, authority. Such particularly is the case in beneficiary matters, which involve the temporal interests of the patron or the incumbent. Now, with respect to rescripts of this mixt nature there is no dispute. The "Placet" applies to them. They cannot be carried into execution without the approbation and concurrence of the secular authority.*

But in regard of the former, the case is widely different: they are entirely of a spiritual nature, and of the competence of the spiritual power only. With them, according to the principles of Catholic doctrine, the civil power has no right to interfere, either to confirm or disprove them, much less to prevent their publication. Still some Roman Catholic governments have claimed of late years the right to inspect them before publication: and of this new claim, it may not be improper to give a short historical account.

It is apprehended that no attempt was ever made to subject dogmatical decisions to the operation of the Placet, before the rise of the controversy caused by the condemnation of the work of Jansenius, Bishop of Ipres, by Urban VIII. His doctrines found many zealous partizans among his countrymen, and particularly in the supreme council of Brabant; who endeavoured to shield themselves from the papal sentence under the cover of the Placet. On the ground that the bull of Urban VIII. had not received this preliminary sanction, they declared its publication by the bishops illegal and null: but were immediately checked by the sovereign, Philip IV., and compelled to permit the publication. They repeated the attempt with respect to the bulls of Innocent X. in 1653, and of Alexander VII. in 1656, but with no better success. The king in his final answer, in 1659, declared, that the "Placet was necessary only in beneficiary and litigated cases." The

‡ S'il est question d'objets mixtes, soit dans les loix civiles, soit dans les loix ecclésiastiques, l' acceptation et la publication doivent alors être communes. Elles doivent se faire, chacune pour sa partie, et par la puissance spirituelle, et par la puissance temporelle. Lett. Pastor. de l'Evêque de Sisteron, du 25 Août, 1791.

council submitted, but, in the very act of submission, maintained in reality their former claim, by pretending that they had at least a right to examine whether the bull required the Placet or not.* Their pretensions were eagerly supported by Van Espen. Whatever may be thought of his reasoning, it is evident that he was unable to corroborate it by a single precedent.†

In France the same doctrine has been taught by several jurists. They have numbered the Placet even with respect to doctrinal decisions among the liberties of the Gallican church. But the clergy have always rejected it, together with other similar liberties bestowed upon them by these writers, and have declared it to be an abuse and usurpation on the part of the civil power.‡ De Marca, the zealous champion of the real liberties of the Gallican church, declares, that decisions respecting doctrine want not the authority of the prince to become binding in conscience: and De Bissy, after observing that, as the laws of princes require not the confirmation of the spiritual power, so dogmatical decisions require not the confirmation of the temporal power, adds, that the sovereigns have never arrogated to themselves the right of retarding the execution of doctrinal decrees.§

* See Van Espen. tom. iv., p. 212, 213. Nétant le placet requis qu'en matière beneficiale et litigieuse entre parties, p. 212.

† Id. p. 164—174.

‡ As among the documents we find a long extract from a commentary on Pithou and Dupuy, by Durand de Maillane, with several pieces respecting the declaration of the French clergy, in 1682, it may not be amiss to subjoin the following passages from the defence of that declaration by Bossuet. Le clergé de France, pour prévenir les soupçons qu'on pourroit avoir, qu'il comprenoit sous le nom de *coutumes* des usages pernicieux, qu'on nomme dans le droit des abus et de vieilles erreurs, declare que la discipline et les libertés de l'église Gallicane consistent à observer les coutumes établies du consentement du S. Siege et des églises.—Comme s'il étoit â craindre que les prelats François parussent approuver ce qu'il y à de reprehensible dans Fevret, Pierre Dupuy, et ce que leurs predecesseurs ont tant de fois condamné. Liv. xi. c. 12 20.

§ De Marca, Concord. Sacerd. et Imper. 1. 2, c. 10. Mandement du Card. de Bissy, Evêq. de Meaux, 17, 25.

The bulls mentioned above had been published in France without any Placet. The Jansenists discovered means to elude their authority. Louis XIV., in 1665, solicited another bull from Alexander VII., which was published with the Placet, and an injunction to all civil officers to enforce its execution with temporal penalties. It was the object of the king to compel obedience by the joint influence of the spiritual and civil authorities: the French jurists were willing to see in his conduct a precedent for the necessity of the Placet even in doctrinal decisions.

It would be tedious to relate the sequel of the Jansenistical controversy: but a few notices are necessary to understand some of the documents added to the Report. The French bishops strove to enforce obedience to the papal bulls: the magistrates of the parliament of Paris supported with all the means in their power the cause of the refractory, who were termed Appellants. In 1766, in consequence of the urgent remonstrances of the assembly of the clergy, Louis XV. published several declarations, among which was one calculated to satisfy, if it were possible, both parties. In it he acknowledges, "that it is the undoubted right of the church to decide what ought to be believed and practised in the order of religion, and to determine the nature of its judgments in matters of doctrine, and their effects on the souls of the faithful: so that the temporal power cannot in any case pronounce on dogmatical points, or anything purely spiritual. But, at the same time, the temporal power, before it authorizes the publication of the decisions of the church, before it makes them laws of the state, before it orders them to be executed under temporal penalties against those who disobey, has a right to examine the form of these decrees, their conformity with the maxims of the kingdom, and whatever may in their publication alter or influence the public tranquillity."*

It is evident that this declaration evaded the real point

* Report. p. 295, [192].

in question. The parliament proceeded in its former course, and published an arrêt forbidding, under certain penalties, the reception and publication of any bulls or briefs whatsoever, unless they had previously been presented to that court, and examined by it. But in 1771, the king's patience was exhaused by the refractory spirit of the magistrates. The parliament was dissolved, and new courts of judicature erected in its place: the clergy, who had been banished by it, were recalled: and the last arrêt was suspended by letters-patent of the 18th of January, 1772.* Shortly afterwards, however, he commanded by a public declaration, that all bulls should be enregistered, without making any distinction between those on doctrinal and those on other matters.†

In Spain it appears, that the precaution of the Placet was first extended to doctrinal bulls by a law of Charles III. in 1761. The next year, that monarch thought it necessary to declare, that, though this order comprised all bulls, yet "if any of them related to doctrine or universal discipline, he was and always should be ready to pay them due obedience, and to order their most strict and punctual execution, by interposing for that end his authority and royal power."‡

Portugal presents no instance of it before 1765. In that year, Clement XIII., by the bull Apostolicum confirmed the order of the Jesuits. The Court of Lisbon, considering the bull as a tacit condemnation of its conduct in having expelled the order from its dominions, published a decree to forbid the execution of *any* papal rescripts without the Placet. The king, however, in 1770, thought it expedient to add a declaration, that by such law he had never intended to prevent recourse to the justice of the sovereign Pontiff, or to the tribunals

* Report, p. 275, [181]. By a mistake of the reporter in a note of page 289, [189, where the blunder is still retained], these letters patent, suspending the arrêt, are described as confirming it.

† Ibid. 277, [182].

‡ Ibid. p. 319, [206].

at Rome, in matters which come within their competence.*

The precedents given by these powers could not fail of being adopted by the Emperor Joseph. The necessity of the Placet, even in doctrinal decisions, was established by him on the 4th of May, 1781, but was immediately opposed by the bishops in every part of his dominions. Remonstrance followed remonstrance. He was told, that, as such decisions derived all their authority from the church, and not from the throne, the sovereign could not, without incurring the guilt of sin, prevent them from being published, and received by the people with submission and respect.† The Imperial court is not hasty to retrace its steps: but Joseph, in 1782, consented to explain his decree, and to declare that, "though he retained the use of the Placet, it must be evident that doctrinal bulls were made subject to the royal inspection, only inasmuch as might be necessary to ascertain that they were merely doctrinal, and did not contain any incompetent article."‡

From this hasty sketch, it may be inferred, that the application of the Placet to doctrinal bulls is a recent innovation; that the sovereigns, who have adopted it, have found it necessary to explain their reasons; and that by the Catholic clergy it has always been considered as an abuse, which, if they cannot prevent, they at least condemn.

* Ibid. p. 368, [236]. The two next articles, though printed with general titles, regard only favours solicited by individuals of religious orders to the prejudice of domestic discipline.

† Les princes séculiers ne peuvent, sans se rendre coupables, empecher qu'on ne les publie, et que les fideles ne les reçoivent avec soumission et respect. Remonst. dês Eveques d'Autriche à sa M. l'Empereur, touchant l'Edit. du 4 Mars, 1781.

‡ Report, p. 170, [105]. In Sardinia, Naples, and Sicily, there is no proof that the Placet was ever applied to doctrinal decisions The instances mentioned in the long extract from Gianone, all relate to mixed matters. The same may be said of other kingdoms. The instances adduced prove the existence of the Placet for bulls of other descriptions, but not for dogmatical bulls, before the time mentioned in the text.

But whatever be the object of bulls and rescripts, whether doctrinal or not, it should be observed, that the effect of the Placet is not merely to license the introduction or execution of such instruments. It does much more. It invests them with civil authority. It makes them laws of the state. They may then be *pleaded* in the courts civil as well as ecclesiastical: and it becomes the duty of the officers of justice to see them executed. Thus Louis XV., in his letters patent, cited above, tells us, that the civil power makes them laws, and enforces them by temporal penalties.* D'Hericourt lays down the same doctrine: "Dogmatical decisions ought to be published by order of the king, that they may be considered as laws of the state."† Durand de Maillane, in the Appendix to the Report, after having observed that papal bulls, rescripts, citations, &c., are not executed in France without the royal approbation, adds: "They obtain the force of law by the formal letters of the king or his ministers, called 'Pareatis:' consequently, by the sole authority of the king, not by apostolic authority."‡ Hence in Van Espen we are told, that the necessity of the Placet is founded on this, that bulls, by being received, become *laws of the state*.§ Even in the Russian and Prussian dominions, the decisions of the episcopal courts are guided by the canon law, and papal decrees; and therefore the previous approbation of the sovereign is required.

From the preceding statement, it is plain that the Placet, as it is employed in foreign states, is totally inapplicable to the Catholic churches of this empire. The last paragraph furnishes a most powerful argument

* Report, p. 295, [192].

† Les souverains doivent travailler suivant l'entendue de leur pouvoir à faire executer ce que l'Eglise decide par rapport à la doctrine: il est à propos que ces decisions soient publiées par ordre du roi, afin qu'elles soient regardées comme des lois de l'état. D'Hericourt, droit ecclésiastique François.

‡ Report, p. 259, [169].

§ Necessitas autem placiti fundatur in eo, quod bullæ receptione fiant leges regnorum. Van Espen, tom. iv. p. 133, not.

against it. To give it to the sovereign, would be to invest him with the power of making the mandates of a foreign prelate binding on British subjects : a power which seems repugnant to the principles of the British constitution.

But, independently of this objection, if it were given, it would prove inoperative. Where the Roman Catholic is the religion of the state, the Pope, as head of that religion, can hardly be called a foreign prelate. His acts necessarily regard, institutions upheld by the state, and, as far as they partake of a civil character, owing their existence to the state. There the temporal power may find occasion to exercise the Placet for the protection of temporal rights. But in the Roman Catholic Church of the United Kingdom, as long as it possesses no civil establishment, what is there to which the Placet can properly apply?

It cannot apply to the ordinary epistolary correspondence between individuals in the two states. (See No. 1.) As well might it apply to the correspondence between the Quakers of this country and their brethren in America.

It cannot apply to the briefs issued by the Penitentiary, and regarding the consciences of individuals. (No. 2.) Indeed, it is believed that such briefs are unknown among the Catholics of these islands.

It cannot apply to dispensations. The few dispensations required are regularly obtained immediately from the bishops, who for that purpose are furnished with the most ample powers.

It ought not to apply to doctrinal decisions. (No. 3.) But supposing that it did, where could be its use? As long as the press is free, such decisions will come to the knowledge of British Catholics through the same channel through which they do at present, the papers and periodical publications.

It cannot apply to those instruments to which it chiefly applies in foreign states, to letters of nomination, citation, or execution, respecting the collation, exchange, or resignation of benefices; for this plain reason, that in the

United Kingdom the Catholic clergy have no benefices. Of course all rescripts of that description are unknown among them.

There will remain nothing but the letters containing the institution of bishops and their faculties, and letters of advice and instruction respecting difficult cases, which may occasionally occur in the exercise of their ministry. The Placet is useless with respect to the first, which are always conceived in the same form of words; so that he, who has seen one, has seen all: it is never applied to the second in foreign states, as they contain no ordinances affecting the temporal rights of the state or individuals, but are entirely confined to spiritual matters.

But let us make the gratuitous supposition, that a Roman Catholic bishop receives from Rome an order affecting civil interests. Could he, or would he, carry it into execution? He *could* not, because he has no courts, no exterior jurisdiction. He *would* not, because he has sworn that the Pope has no civil authority, directly or indirectly, within this realm. This oath is a stronger barrier than any "Placet." It binds the conscience of the prelate: the "Placet" could only affect the legality of his conduct.

Again, let us suppose that the Roman Catholic bishops are compelled to exhibit all letters that they may receive, to one or more commissioners appointed by the civil power: what is to be the consequence, if the commissioners disapprove of the letters? Are the commissioners to suppress them? Still the bishops will be apprised of their contents, and at liberty to comply with them, if they please. Are they to forbid compliance under certain penalties? But assuredly it will not be borne in a free country, that the private conduct of any individual should be regulated by the judgment or caprice of one or more individuals. That is the prerogative of the law. If the bishop transgress the law, he is amenable to justice. If he do not, he has the right, like any other subject, to act according to his own judgment.

In treating this subject, the writer has confined himself

to one line of argument, the practice of foreign states. His object has been to answer the question, why British Catholics ought not to be subjected to the regulations which affect foreign Catholics, by shewing that the cases are altogether dissimilar. In conclusion, he would wish to point the attention of the reader to ordinances of foreign states, which do not appear in the Report and Appendix, to the ordinances which have restored the Protestants in Catholic kingdoms to the full enjoyment of civil rights. In every Catholic country, in which the Protestants exist in any number, all disqualifications on account of religion have been abolished. Now, on what conditions have these concessions been made? On no conditions whatever. None were ever required. It never occurred to Catholic legislators, when they emancipated their Protestant brethren, that it was necessary to make men purchase the extension of their civil liberties with additional restrictions on the exercise of their religion.

THE END.